

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 04-3380

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United States of America,

Appellee,

v.

Phillip Nelson Suddarth,

Appellant.

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Appeal from the United States  
District Court for the  
Western District of Missouri.

[UNPUBLISHED]

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Submitted: July 22, 2005

Filed: July 26, 2005

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Before MELLOY, MAGILL, and GRUENDER, Circuit Judges.

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PER CURIAM.

Phillip Suddarth appeals the district court's<sup>1</sup> revocation of his probation and imposition of a term of imprisonment. We affirm.

Suddarth pleaded guilty to making a false statement, in violation of 18 U.S.C. § 1001(a)(2), and was sentenced to 3 years probation. The district court later revoked probation and sentenced Suddarth to 6 months in prison and 2 years supervised release, after finding that Suddarth had violated the terms of his probation. On

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<sup>1</sup>The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

appeal, counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the court should have ordered a drug treatment program rather than to revoke probation and impose a period of incarceration.

The argument in the Anders brief fails. We find no abuse of discretion in the district court's decision to revoke probation. See United States v. Leigh, 276 F.3d 1011, 1012 (8th Cir. 2002) (per curiam) (standard of review). At the revocation hearing, Suddarth admitted that he had violated the terms of his probation, see United States v. Young, 756 F.2d 64, 65 (8th Cir. 1985), and there is nothing in the record to suggest the court felt bound to revoke probation rather than to order additional drug treatment, see U.S.S.G. § 7B1.4, p.s., comment. (n.6). Further, the sentence imposed was within the advisory range suggested by the Sentencing Guidelines. See 18 U.S.C. §§ 3565(a)(2), 3553(a).

Having reviewed the record under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues.

Accordingly, we affirm, and we also grant counsel's motion to withdraw.

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